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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES ENDOSCOPY
GROUP, INC.
5976 Heisley Road
Mentor, Ohio 44060.

Plaintiff,

v.

CONMED ENDOSCOPIC
TECHNOLOGIES, INC.
129 Concord Road, Building 3
Billerica, Massachusetts 01821-4600.

CONMED CORPORATION
525 French Road
Utica, New York 13502,

Defendants.

) CASE NO.

)

) JUDGE

)

) COMPLAINT FOR PATENT

) INFRINGEMENT

)

) DEMAND FOR JURY TRIAL

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JUDGE BOYKO

MAG. JUDGE VECCHIARELLI

Plaintiff United States Endoscopy Group, Inc. ("USEG") files this Complaint against Defendants ConMed Endoscopic Technologies, Inc. and ConMed Corporation, (collectively, "ConMed") and hereby complains and avers as follows:

1. This is an action for damages and injunctive relief to remedy direct infringement, inducement to infringe and contributory infringement by Defendants of utility patents assigned to and owned by USEG. The patented invention at issue is a medical device used to capture and remove tissue during endoscopic surgical procedures.

THE PARTIES

2. Plaintiff United States Endoscopy Group, Inc. ("USEG") is a corporation existing under the laws of the State of Ohio, with a principal place of business at 5976 Heisley Road, Mentor, Ohio 44060. USEG makes and sells medical and surgical instruments, including endoscopic instruments and accessories.

3. Defendant ConMed Endoscopic Technologies, Inc. ("ConMed Endoscopic") is a corporation existing under the laws of the Commonwealth of Massachusetts, with a principal place of business at 129 Concord Road, Building 3, Billerica, Massachusetts 01821-4600. ConMed Endoscopic regularly does business in Ohio, including selling its products in this judicial district.

4. Defendant ConMed Corporation is a corporation existing under the laws of the State of New York, with a principal place of business at 525 French Road, Utica, New York 13502. Either directly or through one of its subsidiaries, ConMed Corporation regularly does business in Ohio, including selling its products in this judicial district.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction over this controversy concerning patent infringement by virtue of Title 35 U.S.C., Sections 271 and 281, and Title 28 U.S.C., Sections 1331 and 1338(a).

6. This Court has personal jurisdiction over the Defendants pursuant to the provisions of the Ohio Long Arm Statute, O.R.C. § 2307.382, and the laws of the United States. Defendants maintain an established distribution network for offering for sale, selling and shipping products into the Northern District of Ohio, including their complete line of endoscopic instruments. One or more of these devices are at issue in this action. The marketing and sale of the devices at issue in this action will induce or contribute to the infringement of the patents at issue in this litigation within this state. Also, Defendants' actions as described in this complaint has caused and will cause tortious injury to Plaintiff, a resident of this state, and permit Defendants to wrongfully derive substantial revenue from activities within this state. Upon information and belief, Defendants derive substantial revenue from activities within this state and have sold a substantial amount of products into this state.

7. Venue is proper in this judicial district pursuant to Title 28 U.S.C. Sections 1391 and 1400(b).

CAUSE OF ACTION

8. On July 1, 1997, United States Letters Patent No. 5,643,283 for "Surgical Pouch" ("the '283 Patent") was duly and legally issued naming Marlin E. Younker as the inventor. A true and correct copy of the '283 Patent is attached hereto as Exhibit A.

9. On May 17, 2006, Mr. Younker assigned the '283 Patent to USEG. A copy of that assignment is attached as Exhibit B.

10. On May 25, 1999, United States Letters Patent No. 5,906,621 for "Endoscopic Surgical Device" ("the '621 Patent") was duly and legally issued naming Dean J. Secrest and Marlin E. Younker as the inventors. A true and correct copy of the '621 Patent is attached hereto as Exhibit C.

11. On May 13, 1996, Mr. Secrest and Mr. Younker assigned the '621 Patent to USEG. This assignment is recorded at Reel/Frame Number 007998/0375 in the United States Patent and Trademark Office.

12. Defendants, alone and in combination, manufacture, market, import and sell surgical devices in the United States including a device manufactured, marketed and sold under the trade name "Nakao Spider-Net™ Retrieval Device" (the "Accused Devices").

13. Defendants' making, using, importing, selling and offering to sell the Accused Devices in the United States infringe one or more claims of the '283 and '621 Patents.

14. The Accused Devices directly infringe at least one claim of the '283 Patent and at least one claim of the '621 Patent.

15. Defendants' manufacture, importation, marketing and sale of the Accused Devices within the United States induce customers procuring the Accused Devices to infringe the '283 and '621 Patent.

16. Defendants' manufacture, importation, marketing and sale of the Accused Devices within the United States contribute to the infringement of the '283 and '621 Patent by users of the Accused Devices.

17. Upon information and belief, Defendants' acts of direct infringement, inducement to infringe, and contributory infringement are willful, wanton, and deliberate, without license, and with full knowledge and awareness of the '283 Patent and the '621 Patent.

18. The harm to Plaintiff within this judicial district and elsewhere in the United States resulting from the acts of direct infringement, inducement to infringe, and contributory infringement of the '283 Patent and the '621 Patent by the Defendants set forth above, is irreparable, continuing, and not fully compensable by money damages.

19. Upon information and belief, the Defendants have profited and will continue to profit by their wrongful activities. Plaintiff has been and will be damaged by the Defendants' infringing activities. The amount of monetary damages which Plaintiff has suffered by the acts of the Defendants set forth above cannot be determined without an accounting.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff United States Endoscopy Group., Inc. prays:

- (a) for a judgment that USEG owns the '283 Patent and the '621 Patent;
- (b) for a judgment that the '283 Patent and the '621 Patent are valid and enforceable;
- (c) for a judgment that the Defendants have directly infringed the '283 Patent and the '621 Patent;
- (d) for a judgment that Defendants have induced the infringement of the '283 Patent and the '621 Patent;
- (e) for a judgment that Defendants have contributed to the infringement of the '283 Patent and the '621 Patent;
- (f) for a preliminary and permanent injunction against further infringement (through contribution, inducement, or otherwise) of the '283 Patent and the '621 Patent by Defendants, their officers, directors, employees, agents, licensees, servants, successors, and assigns, and any and all persons acting on their behalf;
- (g) for an order that Defendants destroy all tooling used to make the Accused Devices and any other products inducing or contributing to the infringement of the '283 Patent or the '621 Patent;

- (h) for an accounting to establish Plaintiff's damages and for judgment against the Defendants awarding this damage amount;
- (i) for a judgment that Defendants' infringement is willful and that the award of damages be increased three times the amount assessed under 35 U.S.C. § 284;
- (j) for an assessment of costs against the Defendants;
- (k) for a finding that this action is exceptional and for an award to Plaintiff of its reasonable attorneys' fees incurred in this action under 35 U.S.C. § 285; and
- (l) for such other and further relief as may be just and appropriate.

Respectfully submitted,

Dated: 5/19/06

By: John A. Cipolla
JOHN S. CIPOLLA (0043614)
jcipolla@calfee.com
TRACY SCOTT JOHNSON (0064579)
tjohnson@calfee.com
CALFEE, HALTER & GRISWOLD LLP
800 Superior Avenue, Suite 1400
Cleveland, Ohio 44114
Phone: (216) 622-8200 Fax: (216) 241-0816
Attorneys for United States Endoscopy Group,
Inc.

PLAINTIFF'S DEMAND FOR JURY TRIAL

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and Rule 38.1 of the Local Rules of this Court, Plaintiff hereby demands a jury trial.

Respectfully submitted,

Dated: 5/19/06

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jcipolla@calfee.com

TRACY SCOTT JOHNSON (0064579)

tjohnson@calfee.com

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Cleveland, Ohio 44114

Phone: (216) 622-8200 Fax: (216) 241-0816

Attorneys for United States Endoscopy Group,
Inc.